

DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION
STATE PROCUREMENT BUREAU

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December 8, 2005

STATE OF MONTANA
REQUEST FOR PROPOSAL ADDENDUM
RFP NO.: RFP06-1203O
TO BE OPENED: January 10, 2006
TITLE: DW/SIS/SERIMS

ADDENDUM NO. 1

To All Offerors:

Make the following changes/clarifications to the above-referenced "Request for Proposal":

1. Attached are written questions received in response to this RFP. These questions, along with the State's response, become an official amendment to this RFP.
2. Section 3.10, Background: Change the number of Montana school districts using the Schoolmaster Student Management System from 25 to 79.

All other terms of the subject "Request for Proposal" are to remain as previously stated.

Acknowledgment of Addendum:

The offeror for this solicitation must acknowledge receipt of this addendum. This page must be submitted at the time set for the proposal opening or the proposal may be disqualified from further consideration.

I acknowledge receipt of Addendum No. 1.

Signed: _____

Company Name: _____

Date: _____

Sincerely,

Robert Oliver, Contracts Officer

Section Number	Question/Answer
1.0	<p>Q 1. OPI states that they are seeking "...a Contractor..." (section 1.0, pg. 6) to implement this 3-part solution.</p> <p>It is possible that a single vendor will present the absolutely best-of-breed solution in each of the three categories at an overall affordable price. OPI could also be presented with several combined solutions with one or two very strong components but also weaker components presented by a single vendor.</p> <p>Is it more important to OPI to contract with a single vendor or is it more important to select the best solution in each of the three categories to build the best overall solution?</p> <p>A 1. The scoring criteria addresses the quality of the overall solution by ensuring a minimum passing score for each of sections 6.1.3.G, H and I. This will provide the assurance that all aspects of the system have a satisfactory level of quality. Therefore, the OPI is only interested in placing a single contract to acquire all three systems. However, this does not prohibit three offerors, each with a best-of-breed solution, from collaborating on a single proposal with one of the offerors being the "lead" offeror.</p>
1.4.5	<p>Q 2. ITEM 1.4.5 READS: Prime Contractor/Subcontractors the highest scoring Offeror will be the prime Contractor if a contract is awarded and shall be responsible, in total, for all work of any subContractors. All subContractors, if any, must be listed in the proposal. The State reserves the right to approve all subcontractors. The Contractor shall be responsible to the State for the acts and omissions of all subContractors or agents and of persons directly or indirectly employed by such subContractors, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this document or any contract documents created as a result of any contract awards derived from this RFP shall create any contractual relationships between any subContractor and the State.</p> <p>Question: Is a prime/sub relationship desired and/or mandatory?</p> <p>A 2. No requirement other than identifying any to be used.</p> <p>A prime/sub relationship is not mandatory, nor necessarily desired. If a single offeror can fulfill all aspects of the RFP, the OPI will be satisfied.</p>
Appendix B	<p>Q 3. Article 2.1, We request that this section be modified to account for value-added components (extensions) requested under this contract as well as for the performance of extended maintenance under a separate maintenance agreement. Such modification should contain an appropriate provision relating to the good faith negotiation of the terms for the maintenance agreement and agreement thereupon prior to the commencement of the maintenance. Additionally, it should account for the provision of maintenance for third party COTS software under separate standard maintenance agreements for such software.</p> <p>A 3. Any value added components will be added at time of award. Selected offeror and the State may negotiate any maintenance agreement prior to finalizing any resultant contract.</p>

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2.2.1	<p>Q 4. Section 6.1- General: If our RFP response is required to be disclosed to the public, we request that the District redact any proprietary and confidential information (as defined under section 2.2 of the RFP) from our response before making the disclosure. Reason: Disclosure of proprietary and confidential information will result in undue hardship to us.</p> <p>A 4. Offeror will have to comply with Title 30, chapter 14, part 4 MCA and Section 2.2.2 of the RFP in order to have any of their information treated as “Confidential or Proprietary”.</p>
2.3	<p>Q 5. Section 3.2 – Secure Data Transfer</p> <ul style="list-style-type: none"> a. Are you requiring SIF Compliance for the LEA Student Administration Packages? b. Are you requesting the implementation of a Zone Server Architecture, or is there a ZIS in place? <p>A 5.</p> <ul style="list-style-type: none"> a. LEA Student Administration packages will not be required to be SIF-compliant. Those that are SIF-compliant will be able to utilize SIF to exchange data with the state-level system. Those that are not will have to rely on file exchanges to synchronize data with the state-level system. Additionally, not all LEAs have a student information system. b. There is no ZIS in place at the state level. It is unknown if there are any ZISs in place at any of the districts. Therefore, the ZIS will be included as part of the project implementation and the offeror should include it in the cost.
3.0 Overview	<p>Q 6. The RFP discusses the need for the SIS to assign a unique student identifier (page 17, paragraph 2). How does OPI envision this operationally? For example, a new student moves to Bozeman from out of state and registers with the school district which uses ABC Student Information system to manage the students in their district (grades, attendance, etc.). Does OPI envision a district-level staff member signing onto the State SIS, entering the student, getting an assigned number, and then registering the student with that number in the district's SIS?</p> <p>A 6. Assigning student identifiers could occur in one of two ways: interactively or via batch processing.</p> <p>In the interactive mode, a user (most likely from the district) would log onto the state SIS, enter the necessary student information and get an assigned number. This method would generally be used for those districts where they have no SIS.</p> <p>In the example where the user would be using the batch mode, the district would input the student in their district SIS and then through a batch synchronization (could be SIF), the student would get a unique identifier assigned and that information would be passed back down to the district SIS. The synchronization would either utilize SIF or file transfers.</p>
3.0 Overview Section 3.10 Value-Added Components	<p>Q 7. The above referenced solicitation states the desire of the state is to have a “single, integrated system that includes the DW, SIS and SERIMS functions. Offerors are encouraged to work in collaboration or consortiums to provide a solution that will meet the needs of the SEA. Proposals that do not address all three major elements (DW, SIS and SERIMS) will not be considered”.</p>

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	<p>Question: Does the state define working in collaboration, as a joint proposal that includes a DW, SIS, and SERIMS solution from three separate firms?</p> <p>A 7. The State does define working in collaboration as a joint proposal. Each proposal must stand on its own merit and, therefore, address all aspects of the RFP.</p>
<p>3.0 Overview Section 3.10 Value-Added Components</p>	<p>Q 8. The solicitation states that “the proposed system is <u>NOT</u> intended to be a school or district-level information management system (e.g., Scheduling, Grade Reporting, Attendance Accounting, and Student Report Cards)....Currently, approximately 40% of Montana students are in schools without an SIS.”</p> <p>Question: Will the state accept proposals for a full version of an SIS product (e.g., a solution that included Scheduling, Grade Reporting, Attendance Accounting, and Student Report Cards) under this RFP based on the premise that the full version SIS could not only be used for basic demographic tracking, student unique ID reporting/tracking, and state reporting but would also serve as an option for the 40% of the districts that do not have an SIS.</p> <p>A 8. Yes, the Office of Public Instruction will accept proposals for a full version of an SIS product. However, the state education agency has neither the authority to mandate that school districts use the district level product (scheduling, grade reporting, attendance accounting, and student report cards) nor the resources to maintain a district level system. It would be left to the discretion of individual school districts to use the full system and pay any costs associated with the maintenance of the district level portion.</p>
<p>3.0 Background</p>	<p>Q 9. Page 19, Background- With regard to SIF will the different vendors who have student packages in various schools/districts be required to support Montana awarded Vendor for Implementation and access to their sites?</p> <p>A 9. LEA Student Administration packages are not required to be SIF-compliant. Those that are SIF-compliant will be able to utilize SIF to exchange data with the state-level system. It is expected that these districts will work with their contractor to integrate with the state system. However, they will not be required to do so.</p>
<p>3.0 Statement of Needs</p>	<p>Q 10. Statement of Needs Section</p> <ol style="list-style-type: none"> You mention current data collection in the RFP (e.g., The Central System, The Annual Data Collection System, etc.). How is data actually collected? Do the LEA’s send information electronically? Do the local systems have software that generates the required data? Is there a web interface for statewide data collection? Is there a data dictionary for collected elements? Please describe what you mean by a “web-based means for data exchange.” Data Warehouse: Can you please define Ad-Hoc Reporting? Which users would need to have this capability? You mention improving the analytical and reporting capabilities required by the SEA. What capabilities are currently in place? Please describe the desired functionalities not currently being met by the IRIS system and the Citrix Software

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	<p>package.</p> <p>A 10.</p> <p>a. Most of the current OPI data collections utilize an Access front-end to a SQL Server database back-end. These applications run on a Citrix server to make them available across the Internet for remote access for schools and districts. There have been some instances where we have provided LEAs the ability to import data files that they could generate from their systems (if they have one), but this has been the exception. A data dictionary of collected elements is currently being developed.</p> <p>b. "Web-based means for data exchange" is defined as the electronic transfer of data between the state-level and district-level SIS. Those that are SIF-compliant will be able to utilize SIF to exchange data with the state-level system. Those that are not will have to rely on electronic file transfers to synchronize data with the state-level system.</p> <p>c. By ad hoc we mean having the ability to link several different data sources for analysis purposes. End-users of the Data Warehouse would have access to tools that would allow them to easily query data from assorted tables, summarize the data, and design their own reports and save the results. The reporting tool should allow end-users to drag-and-drop fields into a query or report to allow users to compile pivot-style table of data from background databases. Preferably the ad hoc reporting tools would be available to all Data Warehouse users with access to data based on the security model. At a minimum, the tools would need to be available to the OPI in-house data managers, program managers, researchers and policy makers (approximately 30 people).</p> <p>d. The current reporting and analytical capabilities are limited. Reporting capabilities exist for those users that can link to the data, manipulate it and create their own reports. For those without this capability, programmers must develop this capability on an as-needed basis. The desire is for the Data Warehouse to allow users to be able to select the data they want and any criteria and generate a report without having in-depth knowledge of SQL, report designers, etc.</p> <p>e. We are in the process of trying to phase out Citrix, some issues are:</p> <ul style="list-style-type: none"> • Citrix licensing – in all, six different licenses are required for each Citrix user • Citrix printing – various issues and/or workarounds are in place due to issues with Citrix printing • User administration – excessive demands on network staff to administer State requirements (e.g., password changes, etc.) using Citrix servers • Client software requirements – Citrix requires a client piece of software that requires periodic updates. This leads to support issues due to not having the client software installed or having an incorrect version.
3.3	<p>Q 11. OPI asks for import of Testing Files (3.3.h.2.i-v, pg. 24). Please provide file layouts for each of the five listed testing files.</p> <p>A 11. This information can be found at http://www.opi.mt.gov/pdf/DataWareHouse/ under the following file names:</p> <p>altstudentdatafilelayout04.xls</p>

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	altstudentdatafilelayout08.xls altstudentdatafilelayout10.xls Montana State Student File Format.xls Studentleveldatafilelayout.xls
3.3	<p>Q 12. Section 3.3 Web Based Data Loading and Data Entry</p> <p>a. In paragraph b you indicate “The system will provide the ability for properly authorized users to create business rules to be used in data validation processes”. Would LEA staff members need to create business rules? Can you please describe an “authorized user” in this case?</p> <p>A 12. It is desirable for SEA staff members to create business rules. It is not anticipated to be necessary for LEA staff to create business rules. However, any authorized user shall be able to define them. An authorized user is anyone who has been granted this privilege using the role-based security model.</p>
3.3	<p>Q 13. What is meant by “carry over some selected form fields of data” in Section #3.3 (G)?</p> <p>A 13. The purpose of this requirement is to support teachers in the completion of documents. For example, IEPs are developed annually. In addition to importing demographic data from the Data Warehouse thereby assisting in the development of a new annual IEP, the system must also be capable of allowing the selective import of data from a previous IEP form. For example, the option should be available to allow the author of a new IEP to import annual goals from the previous year’s IEP. The former IEP goals could then be edited by the author.</p>
3.3	<p>Q 14. Please define “matching capabilities” in Section #3.3?</p> <p>A 14. Strike the term “matching capabilities.” 3.3 i should read: “The system must have the capability to enter and/or edit single records online.</p>
3.4.2	<p>Q 15. Can you please clarify the requirements and functionality that is expected to meet 29 USC 794d Section 508 of the Rehabilitation Act of 1973? These requirements, if implemented in their entirety, can be overly burdensome and costly to the State.</p> <p>A 15. This information can be located at http://www.mt.gov/discover/disclaimer.asp#accessibility.</p>
3.4.3	<p>Q 16. The system must allow for event-triggered e-mail notifications. Can you please provide an example? Please refer to Section #3.4.3 (K).</p> <p>A 16. For example, the annual review date for students IEP is five weeks away. An automatic e-mail message is sent to the teacher as a reminder. Two weeks prior to the annual review due date, a second automated e-mail message is sent to both the teacher and the teacher’s supervisor if there is no record of a parent notice being provided for the upcoming IEP meeting.</p>
3.5.1	<p>Q 17. Will the state accept a proposal that has Oracle and not SQL as its database system?</p>

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	<p>A 17. The OPI will not consider Oracle tools. We have extensive knowledge and experience with SQL tools and want to avoid conversion costs.</p>
<p>3.5.3</p>	<p>Q 18. Section 3.5 Technology Requirements a. Section 3.5.3 states the need for 26 years of data. Is this data in an electronic format that can be easily accessed?</p> <p>A 18. The 26 years of data shall be in electronic format that is easily accessible. This requirement is based on the need to access a special education student's entire historical record. As a point of clarification, this data will be accumulated over time and not part of an initial loading of existing historical data.</p>
<p>3.5.3</p>	<p>Q 19. The "Operations/Capacity" section (3.5.3 on page 26) asks for recommendations for augmentation of the state's current hardware specifications.</p> <ul style="list-style-type: none"> • The RFP asks for approximate costs of any changes. Are these costs going to be borne by OPI or the vendor? • The SERIMS will be in daily use in school districts while the other systems are of less critical day-to-day nature. What is the acceptable amount of downtime interruptions for these systems? This will impact the hardware configuration recommended. • Does the OPI data center have these redundancies? If not, does OPI expect estimates for these in the vendor responses? <ul style="list-style-type: none"> ○ UPS backup ○ Utility power redundancy ○ Multiple Internet providers • Does OPI want hardware recommendations that include the following redundancies? <ul style="list-style-type: none"> ○ Redundant processors ○ Redundant power supplies ○ Redundant NIC ○ Mirrored storage ○ RAID storage • Does OPI have existing storage backup (tapes, tape drives, optical jukebox, etc.) equipment to accommodate this system or should vendors provide recommendations for backup devices? ▪ In case of system failure (of any type), what is the nearest point in time that OPI will require for applying backups in a recovery process to each of the three systems? <p>A 19. First bullet: Any costs for hardware changes will be borne by OPI, at the discretion of OPI. Second bullet: The acceptable downtime due to hardware failure is 24 hours.</p>

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	<p>Third bullet: Of the redundancies, OPI currently only has UPS backup. The offeror responses are not expected to include the other items listed.</p> <p>Fourth bullet: Hardware recommendations addressing any and/or all of the items listed are welcome. OPI currently has the following redundancies in place:</p> <ul style="list-style-type: none"> ○ Redundant power supplies ○ Redundant NIC (not in use at this time) ○ RAID storage – Yes, RAID 5 <p>Fifth bullet: OPI has existing backup equipment and no recommendations are required. Currently backup configuration uses a single drive seven tape LTO changer and Backup Exec software. It currently takes 12 hours to do a backup. Venders should provide recommendations for backup devices if the current equipment is insufficient.</p> <p>Sixth bullet: By utilizing SQL transaction logs, the OPI will be able to restore data from any event within minutes of when the event occurred.</p>
3.5.5	<p>Q 20. OPI asks for technical Help Desk during the first year of implementation (section 3.5.5, pg. 27). Is OPI going to assume any Help Desk function after the first year? For all 3 systems?</p> <p>A 20. It is assumed that help desk support will be provided for all three systems. The OPI may assume some help desk functions after the first year. The offeror may provide various breakdowns of additional support options for additional years within their cost proposal in the Annual Maintenance section.</p>
3.5.5	<p>Q 21. Page 27, Section 3.5.5- We understand that many of the schools or districts have no student package or older forms of collecting data and we will be responding on all schools/districts but after the two year project will the state or the district pay for maintenance for these schools/districts?</p> <p>A 21. The intention of the RFP for those schools that do not have a student package is to provide them a web-based interface to the state-level system that will allow them to utilize the state SIS as their own system for the functions that are provided in the state SIS. The offeror will not be providing any software to schools and/or districts.</p>
3.5.5	<p>Q 22. Page 27, Paragraph 3.5.5 – Software Support- Need clarification on end date for help desk function. Is the required end date for help desk services 31 December 2007?</p> <p>A 22. The help desk support will be required for at least the first year of implementation (i.e., 12 months from the time the system goes "live"). The OPI may assume some help desk functions after the first year. The offeror may provide various breakdowns of additional support options for additional years within their cost proposal in the Annual Maintenance section.</p>
3.7.1	<p>Q 23. Page 78, Section 3.7- How much historical date, if any, will be required by OPI to be loaded into the Data Warehouse. If historical data must be loaded, who is responsible, OPI, or the selected vendor?</p> <p>A 23. A determination of the historical data to be loaded into the warehouse had not been made at this time. Any historical data</p>

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	loaded into the Data Warehouse will be the responsibility of the OPI.
3.7	<p>Q 24. Section 3.7 Data Warehouse</p> <ol style="list-style-type: none"> Is a state teacher id available or do districts provide SSN for their teachers? Can specifications on the additional OPI data sets (i.e. Full-time Equivalent (FTE) Staff Data, School Finance data, School Accreditation information, etc.) be made available to bidders? What is the expectation for loading historical data? Will the system be seeded with data beginning in 05-06 or earlier? Does the state have a desire to replace assessment reports produced by the testing vendors with reports produced from the Data Warehouse? <p>A 24.</p> <ol style="list-style-type: none"> Yes, a statewide teacher id, called folio id, is available. OPI does collect the SSN number of teachers, but uses folio id number as the unique teacher identifier. The OPI is currently preparing a data dictionary of all collected data elements for these collections (and others). This documentation is not currently available, but will be made available to the successful offeror. A determination of the historical data to be loaded into the warehouse had not been made at this time. Any historical data loaded into the Data Warehouse will be the responsibility of the OPI. No.
3.7.4	<p>Q 25. OPI asks for the data warehouse to generate reports for the Montana state assessment system (section 3.7.4.c, page 30). Can you please provide samples of these reports?</p> <p>A 25. Samples of OPI Assessment reports (MontCAS) and of Montana's State Report Card can be found at: http://data.opi.state.mt.us/irisreports/ (then click on Assessment (NRT/CRT) and http://www.opi.mt.gov/ReportCard/index.html. OPI expects to improve the quality and ease-of-use of these reports once the new Data Warehouse and reporting tools are in place.</p>
3.8	<p>Q 26. How often does OPI require the SIS to be populated?</p> <ol style="list-style-type: none"> Those districts that do not have a district-level SIS will be using the web-based interface to the State SIS to maintain student information. How often (frequently) will OPI require those districts to update information? Daily? Monthly? Quarterly? At the semester? Those districts that DO have a district-based SIS will be interfacing their data with the state's SIS. How often will OPI expect those systems to update the state SIS? OPI indicates the need for SIF-compliance. Are all district-based SIS systems used in MT SIF-compliant with active ZIS and agents? If not and districts must interface by sending transaction files (for example) electronically, how often will districts be required to update the state SIS <p>A 26.</p> <ol style="list-style-type: none"> Those districts that do not have a district-level SIS will not have a requirement for frequency of update. The expectation is that the data will be kept up-to-date at all times. However, the data will be required to be updated

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	<p>b. prior to certain reporting events, such as official enrollment counts, special education child counts, etc.</p> <p>Not all district-based SIS used in Montana are SIF-compliant with active ZIS and agents. Those districts that do have a district-level SIS will not have a requirement for frequency of update. The expectation is that the data will be kept up-to-date at all times. However, the data will be required to be updated prior to certain reporting events, such as official enrollment counts, special education child counts, etc.</p>
3.8.2	<p>Q 27. OPI asks for the student's Social Security Number (SSN) to be one of the data points captured within the SIS. Can this be used as the state's unique student identifier or is Montana steering clear of using students' SSNs for identification purposes?</p> <p>A 27. The SSN will only be used as an optional data element and, therefore, cannot be used as the identifier.</p>
3.9	<p>Q 28. OPI references state personnel that will use the SERIMS (section 3.9, pg. 34) to perform quality assessment. How many state-level users does the OPI envision? We are asking for total number of users as well as the average number of concurrent users.</p> <p>A 28. The OPI envisions as many as 30 State Education Agency level users, 200 concurrent users and up to 50,000 school personnel and parent users for SERIMS.</p>
3.9	<p>Q 29. OPI indicates that "state personnel...will...perform and document quality assessment on the completeness and correctness of special education record information" (section 3.9, pg. 34). How does OPI envision state personnel using the SERIMS to perform this work? What specific functionality must SERIMS contain for state staff that is different from district-level staff using the system?</p> <p>A 29. The OPI envisions that state personnel would perform monitoring reviews ("desk audits") of special education records. State personnel would need to review the complete set of special education records for an individual student as well as conduct data analysis of selected fields from forms aggregated by school, district, special education cooperative, and the state level. In one example, the data analysis may include a simple "roll up" of all IEPs in a district that were not developed and implemented within one year of the previous IEP with the students identification numbers listed for IEPs that were out of compliance for this provision. In another example, the data may include a statewide "roll up" of all of the Child Study Teams that were not conducted within 60 days of the parent signature on the Permission for Evaluation form with the specific districts that were out of compliance with this provision identified. This example would require the capacity to draw data (in this case a date) from the Permission to Evaluate form and compare that date with the one the Child Study Team form calculating whether the timeline exceeded 60 days. These are only two of many examples of the types of analyses that would be necessary. Generally, the data elements that the OPI reviews to perform and document quality assessment on the completeness and correctness of special education record information are included in the OPI record review form. This form can be found at: http://www.opi.mt.gov/PDF/SpecED/forms/RecordReview.pdf.</p> <p>Generally, district level administrative staff and state staff will need the same specific functionality except for the statewide roll up</p>

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	<p>which will be needed by state level staff. The state, district, and special education cooperative level administrative staff must be able to mine each data element contained in each and all of the forms in order to assure compliance with the requirements of the law. The cells contained in each of the OPI developed special education forms are based on requirements of federal regulation. State staff must be able to mine all data elements for the purposes of analyzing district compliance.</p>
3.9.2	<p>Q 30. OPI asks for a statewide as well as district wide summary report (section 3.9.2.o, pg. 35) and gives a reference to a web site. Does the SERIMS need to calculate this exact report in this exact (Word) format? The sample report has calculations for items such as <i>“Percent of fully adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party”</i> (pg. 14, number 17 of the provided sample). The information required for this calculation (due process hearing requests and their timeline adjudication for each student) is not listed by OPI as information that the SERIMS is required to track. How does OPI envision that this report (at either district or state level) will be calculated if SERIMS does not contain this data? (This is a generic question that applies to many of the calculations on the sample report referred to in the RFP, not just calculation number 17).</p> <p>A 30. a. It is not necessary that SERIMS calculate this exact report in this exact format. However, it is necessary that SERIMS collect the data and prepare summary reports, including statewide, and district level reports, and provide public reporting on the status of each performance indicator. The Montana State Performance Plan (SPP) with current data for each of the 20 performance indicators can be found at: http://www.opi.mt.gov/pdf/speced/SPPFINALDec12005.pdf</p> <p>b. It is not expected that the contractor will provide a tracking and reporting system for the general supervision section of the SPP (performance indicators 15 through 20.) This is a separate data collection system.</p>
3.9.3	<p>Q 31. We cannot locate a form called “Averse Treatment” (section 3.9.3, page 35) on the OPI site. Can you please identify its location?</p> <p>A 31. Please refer to the document titled “Aversive Treatment Procedures” which is located at http://www.opi.mt.gov/PDF/SpecED/guides/AdvTreatGuide.pdf.</p> <p>This document contains three forms: (1) Aversive Treatment Plan on page 22, (2) Aversive Treatment Procedures Checklist on page 26 and (3) Antecedent Behavior Consequences Sheet on page 40.</p>
4.1.2	<p>Q 32. Section 4.1.2. states that as a qualification the Offeror must be a member of the Schools Interoperability Framework (SIF). How does this qualification have any bearing on any vendor to construct the OPI application? Will OPI consider waving this qualification? Is this SIF membership a certification for software vendors on a local, state, or federal level?</p> <p>A 32. Although it does not indicate that a product is SIF certified (that requirement is covered in Section 3.2), SIF membership indicates a level of support and understanding of the SIF requirements, architecture and implementation. The membership alone does not imply that any of the member's applications are certified. The OPI will waive this requirement for membership, but not</p>

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	for system compliance.
5.0	<p>Q 33. Of the \$2.3M budgeted for the acquisition and implementation of the three listed systems, has OPI allocated certain monies to each section? Is there a priority order of the different systems if the overall budget is not sufficient to acquire excellent solutions in all three areas?</p> <p>A 33. The OPI has not allocated specific dollar amounts to each portion of this proposal. The goal is to have a complete system that has a solution that addresses all areas within the specified budget. Therefore, there have not been priorities assigned to each aspect of the overall system.</p>
5.0	<p>Q 34. Page 40, Section 5.0.- \$2.3 million is assumed for the cost of implementation for two years. Does Montana have any ideas on their funding for the support budget after the second year or will it be up to the different districts for funding?</p> <p>A 34. The Office of Public Instruction will request funding from the 2007 Montana legislature for the on-going costs related to the statewide student information system and the Data Warehouse. In the spring of 2006, OPI will submit its request to the Governor's Budget Office to include funding in the Governor's budget for the two-year period beginning July 1, 2007. OPI does not intend to ask districts to support the cost of the statewide system. Schools will need to support their own student management systems.</p>
Appendix B	<p>Q 35. Article 5.2, Please modify/add the following language: Such withholding cannot be greater than the invoiced amounts that the State disputes owing to the contractor and shall not relieve the State from making full payment on undisputed invoices. The State shall only be permitted to withhold payment if it notifies Contractor of its intent to withhold payment within fifteen days of receipt of an invoice from Contractor for the services or deliverables that the State claims are non-conforming. Such notice shall describe in detail the State's basis for withholding payment. The State shall continue to pay invoiced amounts for all services and deliverables not subject to dispute. Any withheld amounts will be released upon Contractor correcting any non-conforming performance or upon conclusion of dispute resolution if it is determined that Contractor had in fact performed in accordance with this Contract.</p> <p>A 35. Article remains unchanged.</p>
6.2	<p>Q 36. Page 43, Paragraph 6.2 – Demonstration Information- Is it OPI's intent to require a product demonstration regardless if the Contractor presented a demonstration previously?</p> <p>A 36. Any previous demonstrations can not be scored as part of this RFP process. Offerors who are invited to perform a demonstration within the RFP process will need to do so or receive zero points for this section.</p>
Appendix B	<p>Q 37. Art 7., See comments to the corresponding provision in Appendix A.</p> <p>A 37. See response to question #78.</p>

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Appendix B	<p>Q 38. Art 8., See comments to the corresponding provision in Appendix A.</p> <p>A 38. See response to question #69.</p>
Appendix B	<p>Q 39. Art 9., We require that our contracts contain a more comprehensive limitation of liability provision that accounts for all damages associated with the project (not just those arising under the contract) and that limits both the amount and types of damages for which the parties may be liable. For such we propose the following:</p> <p>Notwithstanding any other provision of this Agreement, the Contractor's maximum liability regarding the COTS software delivered hereunder shall be limited to that stated in the software license agreement(s) attached hereto at Exhibit ____.</p> <p>For all other services and deliverables, the following provisions shall apply:</p> <p style="padding-left: 40px;">IN NO EVENT SHALL EITHER PARTY NOR THEIR RESPECTIVE EMPLOYEES, OFFICERS AND DIRECTORS BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, COSTS, EXPENSES, OR LOSSES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND OPPORTUNITY COSTS) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES BEFOREHAND. STATE AGREES THAT CONTRACTOR, ITS EMPLOYEES, OFFICERS AND DIRECTORS SHALL NOT BE LIABLE TO STATE FOR ANY ACTIONS, DAMAGES, CLAIMS, LIABILITIES, COSTS EXPENSES, OR LOSSES IN ANY WAY ARISING OUT OF OR RELATING TO THIS AGREEMENT FOR AN AGGREGATE AMOUNT IN EXCESS OF THE FEES PAID BY STATE TO CONTRACTOR FOR THE SERVICES GIVING RISE TO LIABILITY. NO TERMS OF THIS AGREEMENT SHALL BENEFIT OR CREATE ANY RIGHT OR CAUSE OF ACTION IN OR ON BEHALF OF ANY PERSON OR ENTITY OTHER THAN STATE AND CONTRACTOR. THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE. ANY ACTION AGAINST CONTRACTOR MUST BE BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE EVENT GIVING RISE TO THE CAUSE OF ACTION, EXCEPT THAT AN ACTION FOR NON-PAYMENT MAY BE BROUGHT BY A PARTY NOT LATER THAN ONE YEAR FOLLOWING THE DATE OF THE LAST PAYMENT DUE TO SUCH PARTY HEREUNDER.</p> <p>A. 39. The State has limited contract damages to direct damages. It does not believe the marketplace demands further inhibitions to making the State whole where the contractor's negligence has caused the State and its taxpayer's damage.</p> <p>Further, the State does not wish to limit damages for injury to persons or tangible property at all.</p>
Appendix B	<p>Q 40. Section 10- We would be glad to provide the State with a certificate of insurance which provides greater detail as to coverage. We carry commercial insurance appropriate for our industry, including professional liability, comprehensive general liability, worker's compensation, automobile insurance, employer's liability, etc. Reason: We believe our current policies are</p>

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	<p>sufficient to protect the State.</p> <p>A 40. Insurance requirements remain unchanged.</p>
Appendix B	<p>Q 41. Art. 10, We require the following modifications to this Article to comply with our corporate policies regarding insurance:</p> <ul style="list-style-type: none"> • Delete “volunteers” and “be covered and” in §10.4 • Delete “volunteers” and “borrowed” in §10.6 • In §10.7, modify this provision to permit “claims made” coverage without condition, delete the requirement to cover subcontractors (as we require our subcontractors to maintain their own professional liability insurance) and reduce the tail coverage period to one year to reflect what is currently available in the marketplace. • Delete §10.8 • In §10.9, extend the notification time from “immediately” to “within 30 days,” delete the examples of material changes (i.e., just leave the requirement to notify in the event of a material change) and delete the last sentence of this section. <p>A 41. Insurance requirements remain unchanged.</p>
Appendix B	<p>Q 42. Section 10.6- We are only able to list the contractual party (i.e., the State) as an additional insured under our auto policy. Reason: This limitation is imposed by the issuer of the insurance policy.</p> <p>A 42. Insurance requirements remain unchanged. The State must be listed as an additional insured under the general liability coverage.</p>
Appendix B	<p>Q 43. Section 13- We retain all rights in our proprietary software and associated materials, including derivative works, moral rights, and works created in conjunction with the State’s ideas or feedback. We will provide the State with a non-transferable, non-exclusive, royalty-free, revocable license (subject to the State’s material default in the use of our proprietary materials). Our standard licensing terms will be appended to the resultant contract with the State. Reason: Our product is a generally available commercial software product and not a custom application for the state of Montana. Therefore, all our software and associated materials are proprietary to us. Transfer of these proprietary rights would cause severe and undue hardship to us.</p> <p>A 43. The current clause allows each party to have the future use of material created under this contract. The current clauses recognize that the contractor continues to own intellectual property it brought to this project.</p>

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Appendix B	<p>Q 44. Art. 13, This section must be clarified to state that the license applicable to the COTS software to be attached to the final contract will govern the intellectual property rights regarding such software notwithstanding any contrary terms in the contract. Further, to the extent that such license agreement includes within its definition of licensed software any modifications, extensions, customizations or enhancements to the COTS software, the license agreement shall govern with respect to such items as well.</p> <p>Any contractor-provided intellectual property (including that of the sort referenced in §13.5) will be provided to MPD under a non-exclusive license for the State's use only and without any right to transfer (except to a successor entity), sublicense, reverse engineer or distribute such intellectual property without the contractor's consent. Contractor information will be generally described prior to commencement of the project or in the proposal and may include intellectual property that the contractor may employ on this project under a license with the owner of such information. We require further discussion with the State as to how the contractor will demonstrate proof of ownership.</p> <p>In reference to §§13.1 and 13.3, we request that these provisions be clarified to state that the contractor will own the newly created intellectual property with the state receiving a broad license to use and exploit it (subject to the aforementioned COTS software license agreement if applicable to such intellectual property).</p> <p>A 44. The current clause allows each party to have the future use of material created under this contract.</p> <p>The State cannot agree to limiting the right to use this material, or limit the right of the State to own its future modifications, subject to contract language of another that is not party to this contract and which language has not been supplied.</p> <p>The current clauses recognize that the contractor continues to own intellectual property it brought to this project.</p>
Appendix B	<p>Q 45. Section 13.1 Mutual Use (pg. 51) – this section says that "...both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract including <u>all deliverables</u> and other materials, <u>products</u>..."</p> <p>If vendors provide solutions that consist of (at least in part) commercially developed and available products, does Montana expect to have the right to reproduce, publish or authorize others to use these products? If so, Computer Automation will take exception to the language in this section. Our company is not able to transfer the ability for Montana to potentially distribute our products to other parties.</p> <p>A 45. No. If offeror creates copyrightable property of any sort as part of this contract, then both the State and the offeror would gain rights to continue to use those properties, products, and deliverables in the future.</p>
Appendix B	<p>Q 46. Section 14- As part of our standard license agreement, we provide our customers with our standard intellectual property indemnity, which is comparable to industry indemnities. This indemnity mandates us to defend the District for any claims against the District alleging that our software or materials as delivered to the District infringe any U.S. patent or copyright of a third party.</p>

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	<p>The indemnity also obligates the District to cooperate with us, at our cost and expense, in the defense of the suit. Finally, the clause lays out certain common exemptions to our obligations. Reason: Due to the broad nature of this clause, we request discussion and clarification of this point.</p> <p>A 46. Section 14 will remain as is. The State's will not limit to only US patents. The State cannot adequately address this question due to the non-submittal of your intended language.</p>
Appendix B	<p>Q 47. Article 14, The State's recourse for any claim of infringement regarding the COTS software would be subject to the applicable provisions in the applicable license agreement.</p> <p>Regarding any other claims of infringement, we require that the contract contain a more comprehensive indemnity provision with customary conditions and exclusions. For such, we propose the following:</p> <p>14.1 Contractor hereby agrees to indemnify, hold harmless and defend State from and against any and all Liabilities asserted against State by a third party to the extent such Liabilities result from the infringement of the deliverable provided to the State under this Contract upon any third party's trade secret, trademark, service mark, copyright or United States patent (each, an "Indemnified IP Right"); provided, that the State (i) promptly notifies Contractor of any third party claim subject to indemnification hereunder, (ii) gives Contractor the right to control and direct the preparation, defense and settlement of any such claim and (iii) gives full cooperation to Contractor for the defense of same, and (iv) complies with Contractor's direction to cease any use of the deliverables which, in Contractor's sole judgment, is likely to be ruled an infringement of a third party's Indemnified IP Right.</p> <p>14.2 The foregoing provisions shall not apply to any infringement arising out of: (i) use of a deliverables other than in accordance with applicable documentation or instructions supplied by Contractor or for other than the State's internal purposes; (ii) any alteration, modification or revision of deliverables not expressly authorized in writing by Contractor; (iii) the State's failure to use or implement corrections or enhancements to the deliverables made available by Contractor; (iv) the State's distribution, marketing, or use of the deliverables for the benefit of third parties; (v) the combination of the deliverables with materials not supplied by Contractor; (vi) information, materials or specifications provided by or on behalf of the State or by a third party.</p> <p>14.3 In case any of the deliverables or any portion thereof is held, or in Contractor's reasonable opinion is likely to be held, in any such suit to constitute infringement and its use prevented by injunction, Contractor may within a reasonable time, at its option, either: (i) secure for the State the right to continue the use of such infringing item; (ii) replace, at Contractor's sole expense, such item with a substantially equivalent non-infringing item; or (iii) modify such item so that it becomes non-infringing. If none of the above options can be accomplished, the State will determine if the Contract has been breached.</p> <p>14.4 Notwithstanding the foregoing, to the extent that a third party claim alleges or asserts infringement of an Indemnified IP Right by software, documentation or any other intellectual property that is the subject matter of a separate license agreement in Attachment 5 hereto or such software, documentation or other intellectual property infringes a third party's</p>

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	<p>Indemnified IP Right, the State's sole and exclusive right to indemnification and other remedies for infringement shall be as stated in the applicable license agreement.</p> <p>THE PROVISIONS OF THIS ARTICLE 14 STATE CONTRACTOR'S ENTIRE LIABILITY AND THE STATE'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO ANY INFRINGEMENT OR CLAIM OF INFRINGEMENT.</p> <p>A 47. The State expects the contractor to be expert in the intellectual property it has proposed to utilize. Further, the contractor is the one best able to guarantee that it has the right to allow that property to be used in the manner proposed. Any failure should not cause damage to the State and the State should not have to pursue several contractors, especially if some are not party to this contract.</p> <p>Finally, if the contractor has not been able to supply the right to use all the intellectual property necessary to make the entire system run limiting contract damages to a narrow aspect, and then for only five years, and then depreciated during that period, would likely not make the State whole.</p>
Appendix B	<p>Q 48. Article 15.1, We request that the milestone, holdback and payment percentages be negotiated with the successful vendor, and that a separate payment be allotted for third party software that will be licensed at the commencement of the project.</p> <p>A 48. The State is willing to negotiate acceptable milestones with the successful offeror prior to award of contract.</p>
Appendix B	<p>Q 49. Section 15.3- We would like to discuss the performance security requirement with the State. Reason: We reserve the right to negotiate financial terms during the contract negotiation phase.</p> <p>A 49. Article remains unchanged.</p>
Appendix B	<p>Q 50. Article 16.1, The contract should be clarified to state that any right to assurance or stop work order required by the CIO must be issued in accordance with §16.2 or §16.3 of the contract.</p> <p>A 50. Article remains unchanged. It is understood that any action from the office of the CIO will follow the provisions of the contract.</p>
Appendix B	<p>Q 51. Article 16.2, The contract should contain a minimum time (not less than 20 days) for the contractor to respond to any request for assurance.</p> <p>A 51. It is the State's intent to give a reasonable amount of time to the contractor to provide the written assurance.</p>
Appendix B	<p>Q 52. Section 16.3- We wish to discuss this section with the State. Reason: If we are required to suspend work, we will incur costs in doing so.</p>

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	A 52. Article remains unchanged. The State will analyze any impacts as a result of issuing a stop work order, and determine if any damages incurred by the contractor or the government need to be negotiated.
Appendix B	<p>Q 53. Article 16.3, In an effort to avoid undue hardship in the event of a Stop Work Order, we request the following revision to this language:</p> <p>The State may, at any time by written order to the Contractor, require the Contractor to stop any or all parts of the work required by this Contract (a "Stop Work Order" or "Order") for a period indicated by the State after the Order is delivered to the Contractor. The Order shall be specifically identified as a Stop Work Order issued under this clause. Upon receipt of the Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Order during the period of work stoppage. If a Stop Work Order issued under this clause is canceled or the period of the Order or any extension expires, the Contractor shall resume work. The Contractor shall be entitled to invoice and receive payment for all undisputed services rendered through the effective date of the Stop Work Order ; for partially completed payment milestones, the invoiced amount for services rendered shall be the percentage of the payment milestone equal to the proportion of hours of work actually performed in connection with the milestone to the total number of hours estimated by Contractor for completion of the milestone. The State Project Manager shall make equitable adjustments in the delivery schedule or total cost of the System (by way of equitable adjustments to the affected milestones), or both to account for additional time required and direct costs incurred by Contractor due to the Stop Work Order, and the Contract shall be amended in writing accordingly. Contractor shall exert all commercially reasonable effort to mitigate the amount of such direct costs incurred due to any Stop Work Order. The State acknowledges that, in the event a Stop Work Order is issued, Contractor may reassign all personnel performing services under this Contract and all such personnel may not be available at the time that the services recommence.</p> <p>A 53. Article remains unchanged.</p>
Appendix B	<p>Q 54. Section 17- We request that this section be made reciprocal and should include a reasonable period of cure for each party. Reason: This will protect both the State and us.</p> <p>A 54. Article remains unchanged.</p>
Appendix B	<p>Q 55. Article 17.1, In the event of any alleged breach, we require that we have the opportunity to cure the default prior to a client being able to terminate the contract for cause, collect damages caused by the breach or exercise any other remedies specified in the contract or permitted under applicable law. For IT implementation contracts, we require a minimum cure period of 30 days. The remedies available to the State should be explicitly subject to the contractual limitation of liability.</p> <p>A 55. Article remains unchanged. Any alleged breach will be handled in accordance with Article 18 Event of Breach.</p>
Appendix B	<p>Q 56. Article 17.4, See comments to the corresponding provision in Appendix A.</p> <p>A 56. State statutes and the contract language anticipate that the contractor will be paid for work done.</p>

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Appendix B	<p>Q 57. Section 18- We request that this section be made reciprocal and should include a reasonable period of cure for each party. Reason: This will protect both the State and us.</p> <p>A 57. Article remains unchanged.</p>
Appendix B	<p>Q 58. Article 19, The provisions of this article should be bilateral. Suggested language:</p> <p>Failure by either party hereto to enforce any of the remedies available under Contract or applicable law in the event of breach or default by the other party shall not be deemed a waiver of such party's rights with regard to that event, or any subsequent event. No such failure or waiver shall be deemed a waiver of the right of the non-breaching party to enforce each and all of the provisions of this Contract upon any further or other breach on the part of the other party.</p> <p>A 58. Article remains unchanged.</p>
Appendix B	<p>Q 59. Article 21.1, The requirement to supply named individuals should only apply to key personnel positions and is predicated on the State commencing the project as indicated in the RFP subject to subsequent discussions with the contractor. Since the contractor is responsible for all acts of its employees and the delivery of the solution, the contractor must retain the right to remove any employee (including key personnel) for poor performance, violation of company policy, or other reasonable cause. The contractor will provide written notice to the State within five days of a change in personnel. It also must be understood that all personnel may not be committed to the project on a full time basis or be required for the entire duration of the project.</p> <p>A 59. The current language concerns only key personnel. The State is interested in insuring that any replacement personnel be at least as skilled and that key personnel not be changed solely for the contractor's needs without approval.</p>
Appendix B	<p>Q 60. Article 22.1, This provision should contain a change order and change management provision that comprehensively addresses how changes, whether caused by external events or the request of a party, that affect the contract will be handled and agreed upon. The final sentence in this section should be clarified to indicate that any such termination would occur after an opportunity to cure as specified in the termination for cause provision.</p> <p>A 60. Article remains unchanged.</p>
Appendix B	<p>Q 61. Page 56, Paragraph 22.2 – Progress Meetings- Would it be possible to identify a schedule for the progress meetings (e.g. monthly, weekly)? This would greatly assist us in costing the proposal.</p> <p>A 61. Progress meetings will be held weekly and may be adjusted as needed throughout the contract. Meeting locations may include the OPI, the offeror's office, teleconference and/or video conference.</p>
Appendix B	<p>Q 62. Article 22.3, In order to accord with the notice provisions in §22.2, the presumption discussed in the first sentence of this section should be limited to those problems or circumstances that are known by the Contractor's Managerial Personnel. The term "Contractor's Managerial Personnel" means Contractor personnel filling the role of Project Manager or higher on Contractor's</p>

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	<p>project organization chart.</p> <p>A 62. The State believes its current language and statute require it to cooperate in giving notice but the contractor has a duty to know what is going on with its project.</p>
Appendix B	<p>Q 63. Article 22.4, This provision should contain a general statement as to the duty of the State to cooperate with the contractor in completing the project and to provide timely approvals, access to personnel and data, and fulfillment of its other obligations. Further, any right to extension of deadlines or other adjustments should be based on whether as a matter of fact the State caused a failure or delay and not whether the State agrees that such a failure or delay was its fault. A disagreement as to whether such a factual circumstance exists would be resolved according to the dispute resolution procedure.</p> <p>If a change to the project plan or schedule is required as a result of the problem determination, the formal Change Management Process should be utilized. Additionally, please add to the end of this section, “ In the event that the parties are unable to reach an amicable resolution, the parties shall pursue the Dispute Resolution Process set forth in Article 16 hereof, and Contractor will, to the extent possible, continue performance subject to its right to seek recourse against the State for any claims detailed in the subject status report.”</p> <p>A 63. Article remains unchanged.</p>
Appendix B	<p>Q 64. Article 24, In the first sentence, please remove, “to allow for the expired or terminated portion of the services to continue without interruption or adverse effect,” since the contractor cannot be responsible for performance after transition. Additionally, please replace the last sentence with the following: “If the State terminates a project or this Contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance against any direct damages that the State is determined to have incurred as a result of said termination after the Parties have exhausted the Dispute resolution process set forth in Article 16.2, 16.3, and 16.4 herein.”</p> <p>A 64. Article remains unchanged.</p>
Appendix B	<p>Q 65. Article 26.1, The contract for the implementation of the solution should be a comprehensive document comprising the terms and conditions, statement of work and other relevant documents. The contract should not incorporate the entire RFP or proposal as a whole as these often conflict with the provisions in the final solution and contractual documents agreed upon by the parties and, thus, result in a self-conflicting document. To the extent that certain provisions of the RFP and/or the proposal are required to make the contract accurately represent the parties’ intentions, these specific provisions should be attached to the final contract as exhibits.</p> <p>A 65. Article remains unchanged.</p>
Appendix A Conformance	<p>Q 66. In reference to the last sentence of this provision, COTS software should be accepted in accordance with the applicable provisions of the software license agreement. Services and other deliverables delivered under this contract should contain a</p>

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with Contract	<p>comprehensive testing and acceptance process, which should be negotiated and mutually agreed upon by the parties either prior to contract execution or as part of the project performance. Please remove this sentence from this paragraph.</p> <p>A 66. Article remains unchanged.</p>
Appendix A Failure to Honor Bid/Proposal	<p>Q 67. This section should be clarified to not permit the State to suspend a bidder for a mere breach of contract absent other exacerbating circumstances or for failing to accept an award if contractual terms cannot be agreed upon despite good faith negotiations.</p> <p>A 67. Article remains unchanged.</p>
Appendix A Force Majeure	<p>Q 68. The term “best efforts” is an overly burdensome contract term with expansive legal implications. We propose replacing it with the term “all commercially reasonable efforts.”</p> <p>A 68. Article remains unchanged. The State agrees that “best efforts” requires a contractor to try its hardest to provide the benefit of the bargain it made with the State.</p>
Appendix A Hold Harmless/ Indemnification	<p>Q 69. The type of injuries covered by the indemnity needs to be limited to bodily injuries (including death) and the type of property covered by the indemnity in this section needs to be clarified to be “real or tangible property.” Further, the duty to indemnify should be limited to the extent that the indemnified claim is proximately caused by the negligence or tortious misconduct of the contractor or its employees or subcontractors. The following customary conditions on the duty to indemnify should be inserted at the end of this section:</p> <p>The foregoing indemnification by the Contractor is conditioned upon the State and the applicable Indemnified Parties (i) promptly notifying Contractor of the claim for which indemnification is sought hereunder, (ii) giving Contractor the right to control and direct the preparation, defense and settlement of any such claim, and (iii) giving full cooperation to Contractor for the defense of same. In the event that the Contractor assumes control of the defense and/or settlement of a claim, upon such assumption, an Indemnified Party may continue to participate in the defense and settlement of the claim; however, all attorney’s fees associated with such participation shall be borne exclusively by the Indemnified Party.</p> <p>A 69. Article remains unchanged. The language currently does not require indemnification where the negligence was solely that of the State.</p>
Appendix A	<p>Q 70. HOLD HARMLESS/INDEMNIFICATION: We will agree to indemnify the State as a direct result of its (including its employees, agents, or subcontractors acting within the scope of their duties) negligence or willful misconduct. Reason for exception: Due to the broad nature of this clause, we request discussion and clarification of this point.</p> <p>A 70. Article remains unchanged.</p>

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Appendix A Payment Term	<p>Q 71. The provision should account for the payment schedule in Section 5.1 of Appendix B.</p> <p>A 71. Article remains unchanged. Payment Schedule in Appendix B is separate from the provision in Appendix A.</p>
Appendix A	<p>Q 72. PAYMENT TERM: The resultant contract between us and the State will contain a mutually agreed upon payment schedule. Reason: We reserve the right to negotiate financial terms during the contract negotiation phase.</p> <p>A 72. Payment Term Article in Appendix A remains unchanged. State may be willing to negotiate an acceptable payment schedule in Appendix B, Article 5.1.</p>
Appendix A Termination of Contract	<p>Q 73. We require an opportunity to cure prior to the State being able to terminate the contract for cause. Please see our applicable comments to Appendix B.</p> <p>A 73. In most cases the contractor will be given a chance to cure, but in cases of massive breach that are likely not to be cured properly, the State desires to retain the ability to terminate for cause.</p>
Appendix A	<p>Q 74. TERMINATION OF CONTRACT: Should we be in default of our contractual obligations, the State will provide us with a reasonable time period to cure such default. Reason: We believe it is in the best interest of both parties, with regard to time and money invested, to cure such default.</p> <p>A 74. In most cases the contractor will be given a chance to cure, but in cases of massive breach that are likely not to be cured properly, the State desires to retain the ability to terminate for cause.</p>
Appendix A Unavailability of Funding	<p>Q 75. This provision should be modified to ensure that the contractor is entitled to payment in full for any services rendered or deliverables delivered prior to the State delivering a notification to contractor detailing the work to be terminated or reduced due to the lack of funding.</p> <p>A 75. State statutes and the contract language anticipate that the contractor will be paid for work done.</p>
Appendix A Warranties	<p>Q 76. The final contract should contain a comprehensive warranty specifically designed for the services and deliverables to be provided for this project and, thus, this warranty statement, which is more appropriate for the delivery of basic supplies, should be deleted. Additionally, we cannot agree to general warranties of fitness or merchantability.</p> <p>The warranty applicable to the COTS software must be limited to that stated in the applicable software license agreement.</p> <p>With respect to custom software and our implementation services, due to this project budget and revenue recognition issues, the warranty period (as compared to the maintenance period) applicable to the COTS software and services and the implementation services must shorter than that requested by the State. In lieu of the one-year warranty requested by the State, we propose a shorter warranty that immediately rolls over into an extended maintenance agreement. Further, the warranty provisions in the contract should contain customary warranty exclusions and a disclaimer of all non-express warranties.</p>

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	<p data-bbox="346 318 1060 347">We propose the following substitute warranty provision:</p> <p data-bbox="443 388 2018 1386">Contractor warrants to State that, for a period of ninety (90) days following its acceptance by State (the "Warranty Period"), any computer program (and associated documentation) developed by Contractor for State hereunder shall conform to the Specifications applicable thereto in all material respects. In the event State notifies Contractor in writing of a breach of the foregoing warranty during the Warranty Period, Contractor shall promptly use reasonable efforts to remedy such breach at no additional expense to State. In the event that Contractor, after using reasonable efforts, is unable to remedy such breach, Contractor's sole liability to State in connection with such breach shall be to refund the amount paid by State for such computer program. Notwithstanding the foregoing, Contractor shall have no obligation or liability to State under this warranty to the extent that a nonconformity results from: (i) State's use of such computer program in a manner inconsistent with the documentation therefore; (ii) alterations or modifications made to such computer program by State without the written approval of Contractor; (iii) defects in any third party computer program, including the failure of any such program to operate in strict accordance with specifications; (iv) malfunctions of State computer hardware or system environment occurring through no fault of Contractor; (v) storage, operation, use or maintenance of such computer program in a manner or an environment inconsistent with the Specifications and instructions of Contractor at the time such computer program is delivered to State; (vi) State's failure to use corrections or enhancements made available by Contractor; (vii) State's use of the Deliverables in combination with any product or information not provided by Contractor; or (viii) information, materials or specifications provided by or on behalf of State, or by a third party; in each case, whether or not with Contractor's consent. Notwithstanding anything in this Agreement, State understands that Contractor shall bear no responsibility for the performance, repair or warranty of any of State software or hardware product or any software, hardware product, or service provided to State by a third party and State shall look solely to the third party provider for all remedies and support with regard to such products or service. CONTRACTOR DOES NOT WARRANT THAT ANY OF THE COMPUTER PROGRAM(S), CONTENT OR INFORMATION PROVIDED BY CONTRACTOR WILL MEET STATE'S PARTICULAR PURPOSE OR REQUIREMENTS, NOR THAT THE OPERATION OF ANY SUCH COMPUTER PROGRAM WILL BE UNINTERRUPTED AND/OR ERROR-FREE. ALL WARRANTIES PROVIDED HEREIN ARE PERSONAL TO, AND INTENDED SOLELY FOR THE BENEFIT OF, STATE AND DO NOT EXTEND TO ANY THIRD PARTY. EXCEPT AS OTHERWISE SET FORTH HEREIN, COMPUTER INFORMATION, CONTRACTOR'S EFFORTS, AND COMPUTER PROGRAMS ARE PROVIDED WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH STATE. THE EXPRESS WARRANTIES IN THIS AGREEMENT SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, INTEROPERABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.</p> <p data-bbox="346 1427 1986 1455">A 76. Warranty Article in Appendix A remains unchanged. State may consider adding appropriate industry warranty language</p>

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Appendix A	<p>as a separate attachment to any resultant contract.</p> <p>Q 77. WARRANTIES: We will provide the State with a standard industry warranty relative to software licensing. Reason: Software licensing warranties may differ from other types of product warranties.</p> <p>A 77. Warranty Article in Appendix A remains unchanged. State may consider adding appropriate industry warranty language as a separate attachment to any resultant contract.</p>
Appendix B Assignment, Transfer and Subcontracting	<p>Q 78. This provision should require the State to object to any subcontractors detailed in the proposal prior to contract execution. These subcontractors form the basis of our proposal and the failure of the State to provide consent following contract execution would cause us to not be able to perform the project.</p> <p>A 78. The statute and contract language reflecting the statute are for further assignment and subcontracting. They are required.</p>
Appendix B	<p>Q 79. Sections 8 and 9- We reserve the right to discuss the issues of indemnification and liability with the State. Reason: Due to the broad nature of these clauses, we request discussion and clarification of these points.</p> <p>A 79. Articles remain unchanged. See previous answers to similar questions.</p>
General Exception	<p>Q 80. We find the State's terms and conditions generally acceptable; however, we anticipate that any terms and conditions unique to this contract will be reviewed by both parties as part of final contract negotiations.</p> <p>A 80. The contract (Appendix B) included as part of this RFP will, in fact, be the contract used. The only limited negotiations will be done for those areas of the contract that can't be completed until after proposal submittal and final evaluations.</p>
General	<p>Q 81. Are any Montana state employees going to be assigned to the on-going operation and administration of these systems? If so, what roles will these individuals fill (network administrator, DBA, etc.)? Will they be full-time to these systems or will these staff members have other duties? If these individuals are currently identified, can OPI please present a summary of their backgrounds?</p> <p>A 81. State Education employees will be assigned to the on-going operation and administration of these systems. The roles include network administration, database administration, backup operations, etc. The personnel fulfilling these roles will have other duties, but only in the sense that they will be performing the same functions on other equipment (e.g., test and development servers). All OPI staff involved in the support of these systems have been SQL Server or Windows Server administrators for at least five years.</p>
General	<p>Q 82. The high-level Schedule of Events (pg. 5) is provided. Would OPI be open to a more aggressive timeline for some components such as the SERIMS?</p> <p>A 82. The RFP requires that the SERIMS be fully integrated with the SIS and Data Warehouse. The OPI would discourage a</p>

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	more aggressive timeline for SERIMS or for any of the other components unless the offeror ensured that all aspects of the system would, in the end, be fully integrated. The OPI would be open to early piloting of a component with users for the purpose of receiving feedback on usability.
General	<p>Q 83. How many users of the Data Warehouse does the OPI envision? We are asking for total number of users as well as the average number of concurrent users.</p> <p>A 83. The number of Data Warehouse users could be upwards of 500,000. However, the expectation is that there will be no more than 200 concurrent users.</p>
General	<p>Q 84. The RFP states that vendors may submit multiple proposals. May vendors submit proposals for just portions of the three solutions?</p> <p>A 84. No. Offerors may submit multiple proposals. However, each proposal must stand on its own merit and, therefore, address all aspects of the RFP. Instances where this clause might be used include an offeror that has a SIS and special education package, but does not have a Data Warehouse product. In this case, the Offeror could collaborate with two (or more) Data Warehouse offerors and submit a proposal with each Data Warehouse offeror.</p>
General	<p>Q 85. Is the intention of this RFP to select a COTS solution?</p> <p>A 85. This RFP is intended to select an existing solution (COTS or otherwise) that can be modified to meet the OPI's needs at a minimum cost.</p>
General	<p>Q 86. If a COTS solution is the intention of this RFP, has there already been an interview with Vendors who may supply this service to OPI? If so, what vendors have engaged in talks with OPI?</p> <p>A 86. There have been no vendor "interviews". In August and September, vendors were offered the opportunity to demonstrate their products, based on a preliminary list of requirements, to allow the OPI to more fully determine our requirements for each aspect of the system. The list of these vendors can be found at http://www.opi.mt.gov/pdf/DataWareHouse/Doc2.pdf.</p>
General	<p>Q 87. Have any vendors who have engaged with talks with OPI about this application been involved in gathering requirements, supplying information, or helped in developing or writing any portion of this RFP?</p> <p>If so, will the vendor be deemed ineligible to participate in the RFP process?</p> <p>A 87. No vendors have been involved in the development or writing of any portion of the Office of Public Instruction's RFP. However, OPI has relied on consultants to assist with the strategic planning processes that have led up to the issuance of the RFP. Intelligence Consulting LLC headquartered in Salem, Oregon; Synesis 7 headquartered in Butte, Montana; and the CELT Corporation have assisted OPI in the development of planning documents. The Office of Public Instruction is a member of the Decision Support Architecture Consortium, sponsored by the Council of Chief States School Officers, and has also benefited from</p>

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General	<p>materials received through its membership in the consortium.</p> <p>Q 88. Please describe the number, skill level, and experience of OPI staff that are dedicated to this project.</p> <ol style="list-style-type: none"> How many are dedicated 100% to this project? How many have experience with SQL data bases? To what degree do OPI staff have with using Microsoft Reporting services? To what degree do OPI staff have with using Microsoft SQL Analysis services? <p>A 88.</p> <ol style="list-style-type: none"> The OPI has several positions that are dedicated to this project, all times are estimates: <ul style="list-style-type: none"> Full-Time <ul style="list-style-type: none"> Data Resource Administrator Student Record System Manager Half-Time (Also working on other systems and/or projects) <ul style="list-style-type: none"> Database Administrator Project Manager Less than half-time <ul style="list-style-type: none"> Network Administrators <ol style="list-style-type: none"> The OPI will have a full-time database administrator and network administrators. However, these personnel will have other duties, but only in the sense that they will be performing the same functions on other equipment (e.g., test and development servers). All programming staff and database and network administrators have experience with SQL databases. The Project Manager has experience with PMI methodologies. Their areas of knowledge and experience are appropriate to perform their appropriate functions with the database. The Data Resource Administrator and Student Record System Manager positions are currently vacant. The OPI does not currently use Microsoft Reporting Services. The OPI does not currently use Microsoft SQL Analysis Services.
General	<p>Q 89. What is the state's expectation in terms of dependency on vendors in subsequent years following development of the systems?</p> <ol style="list-style-type: none"> How involved are vendors expected to be in maintaining and administering the system? <p>A 89. The State expects to administer the system. Dependency on the contractor in subsequent years, including support, maintenance and enhancements, will be dependent upon a contract extension and should be addressed by the offeror in the "Additional Maintenance" portion of the cost proposal.</p>
General	<p>Q 90. What are your data conversion requirements/expectations? Please clarify the numbers of years of data to be converted.</p> <p>A 90. A determination of the historical data to be loaded into the warehouse had not been made at this time. Any historical data</p>

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General	loaded into the Data Warehouse will be the responsibility of the OPI.
	<p>Q 91. All documents in the process of completion must be watermarked as “draft” until such time as they are finalized. Is this required anywhere other than Special Education IEP documents? If so, what other documents? Please refer to Section #3.4.3 (I).</p> <p>A 91. At this time we have not identified any additional documents to be watermarked as “draft”, however we are interested in having the option available.</p>
General	<p>Q 92. The system must facilitate automated workflow and status tracking. Is this required any where other than Special Education IEP documents? If so, where? Please refer to Section #3.4.3 (J).</p> <p>A 92. At this time we have not identified any additional status tracking other than within the Special Education IEP documents, however we are interested in having the option available.</p>